



Export Control Compliance Manual

Updated December 2020

Table of Contents

<i>I. INTRODUCTION</i>	3
<i>II. GLOSSARY</i>	3
<i>III. POLICIES AND RESOURCES</i>	7
A. Policies.....	7
B. Resources and Procedures.....	8
C. Record Retention.....	14
<i>IV. OVERVIEW OF REGULATORY STRUCTURE</i>	15
A. Introduction.....	15
B. Summary of Three Principal Agencies (Laws & Regulations)	16
C. Penalties	18
<i>V. EXPORT CONTROL ISSUES IN UNIVERSITY RESEARCH</i>	19
A. Deemed Exports	19
B. Re-Exports	19
C. Exclusions from Export Control Regulations	20
D. Technology Control Plans (TCPs).....	23
E. Export Licenses	23
<i>APPENDIX: Analyses & Operating Procedures</i>	24

I. INTRODUCTION

Northeastern University is committed to complying with United States federal regulations controlling the export of technologies, services and products. Northeastern's specific policies and procedures supporting these regulations are outlined in the [Policy on Export Controls](#) and this accompanying Export Controls Manual.

This Guide provides research faculty and department administrators with information most salient to research-related activities. The Manual continues to be the most comprehensive resource for all export control questions.

By way of clarity, most research activities at Northeastern fall under exempt export control classification categories, in particular as fundamental research. However, there are certain sponsored research projects which may involve controlled technologies and thus trigger the application of U.S. export controls.

Export controls do not only apply to physical shipments or transmissions abroad (i.e. the emailing data to a colleague in a foreign country). They also apply to "deemed exports," which may include visual inspections of blueprints, specifications, machinery and labs as well as verbal exchanges, including via conference presentations, even if those exchanges happen outside of the U.S.

Per Federal regulations, it is the responsibility of Northeastern to understand and comply with export controls.

The most frequent areas where export controls may arise in a research context include:

- **Traveling with electronic devices;**
- **When terms in a contract highlight the applicability or potential applicability of export control regulations, including restrictions on disseminating data or publishing;**
- **Shipping or transmitting hardware, software or technology outside the U.S.;**
- **Performing research based on technology or data provided by an outside entity;**
- **Collaborating with a foreign company; or**
- **Hosting foreign nationals on any Northeastern campus.**

In any of these circumstances, or whenever there is a question as to the applicability of export control laws, consult with [Research Compliance](#) for guidance.

At any time, Research Compliance is available to work with faculty or administrators with export control questions. Please start by outreaching to researchcompliance@northeastern.edu and the relevant staff member will follow up within one business day.

II. GLOSSARY

Bureau of Industry and Security (BIS) – A licensing, regulatory, and enforcement agency within the Department of Commerce that administers and enforces the Export Administration Regulations (EAR).

Code of Federal Regulations (CFR) – The collection of the general and permanent rules and regulations published in the Federal Register by the executive agencies of the U.S. Federal Government.

Commerce Control List (CCL) – A comprehensive list of commercial and dual-use items subject to the export controls under the EAR. The CCL is located in [Supplement 1 to Part 774 of the EAR](#). A detailed description of the format and function of the CCL is located in the Appendix (page 26).

Commerce Country Chart – A chart, organized by all the countries in the world and the reason for control codes, used for determining whether an export license is required. This chart is located in [Supplement 1 of Part 738 of the EAR](#).

Compliance Department – Northeastern’s department responsible for overseeing Northeastern’s adherence to the laws and regulations, across all campuses.

Deemed Export – Any disclosure (whether oral, written, electronic, or visual) of a controlled item, technology, or source code to a Foreign Person in the U.S. See [15 C.F.R. Part 734.2\(b\)\(1\)](#) [EAR] and [22 C.F.R. § 120.17\(a\)\(4\)](#) [ITAR] for comprehensive definitions of “deemed export.”

Denied Persons List – A list of individuals and entities that have been denied export privileges, maintained by BIS.

Development – All stages prior to serial production, such as: design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, and layouts. See [Part 772 of the EAR](#) (page 13).

Directorate of Defense Trade Controls (DDTC) – A licensing, regulatory, and enforcement agency within the Department of State that administers and enforces the International Traffic in Arms Regulations (ITAR).

Dual Use – Items, information, and software that are primarily commercial in nature, but also have potential military applications. See [15 C.F.R. Part 772](#) (page 14) for the EAR’s definition of “dual use.”

EAR99 – The categorical classification given to all commercial items not identified on the CCL, primarily covering common, low-tech consumer goods.

Educational Information – Information that is normally released by instruction in catalog courses and associated teaching laboratories of academic institutions. See [15 C.F.R. Part 734.9](#) [EAR] and [22 C.F.R. § 120.10\(a\)\(5\)](#) [ITAR] for comprehensive definitions of “educational information.”

Embargo – An official ban on commerce and trade with a certain country for the purpose of facilitating foreign policy and national security objectives.

Empowered Official – A U.S. person who: 1) is directly employed by the applicant [of an export license] or a subsidiary in a position having authority for policy or management within the

applicant organization; and 2) is legally empowered in writing by the applicant to sign license applications or other requests for approval on behalf of the applicant; and 3) understands the provisions and requirements of the various export control statutes and regulations, and the criminal liability, civil liability, and administrative penalties for violating the Arms Export Control Act and the International Traffic in Arms Regulations; and 4) has the independent authority to: i) enquire into any aspect of a proposed export or temporary import by the applicant; ii) verify the legality of the transaction and the accuracy of the information to be submitted; and iii) refuse to sign any license application or other request for approval without prejudice or other adverse recourse. See [22 C.F.R. § 120.25](#) of the International Traffic in Arms Regulations (ITAR).

At Northeastern, the Empowered Official is the Senior Vice Provost for Research (SVPR). The SVPR or designee has been legally empowered in writing by Northeastern to sign export license applications or other requests to the federal government on its behalf. The SVPR is the only individual who can sign paperwork and bind the University in proceedings before government agencies that have export control responsibilities.

End Use – The ultimate use of the exported item by the recipient abroad.

End User – The recipient abroad who receives and ultimately uses the exported items.

Export – An actual shipment or transmission out of the U.S. of items subject to the Export Administration Regulations (EAR) or International Traffic in Arms Regulations (ITAR). See [15 C.F.R. Part 734.2\(b\)\(1\)](#) [EAR] and [22 C.F.R. § 120.17](#) [ITAR] for comprehensive definitions of “export.”

Export Administration Regulations (EAR) – The regulations administered by BIS that regulate the export of commercial and dual-use items, technology, and software identified on the CCL. The EAR are located in [15 C.F.R. Parts 730–774](#).

Export Control Classification Number (ECCN) – A five-character alphanumeric designation used in the CCL to classify items subject to the EAR.

Export Control Policy – The Northeastern policy on export controls, which applies to all faculty, staff, administrators, and students.

Export License – A written authorization granted by the appropriate federal regulatory agency approving a certain type of export transaction.

Foreign Person –

- (i) any foreign entity or group not incorporated or organized to do business in the U.S., or
- (ii) any person who is not a (a) U.S. citizen, (b) permanent resident of the U.S. (i.e., a “green card” holder), or (c) political asylee or refugee status holder.

See [15 C.F.R. Part 734.2\(b\)\(2\)\(ii\)](#) [EAR] and [22 C.F.R. § 120.16](#) [ITAR] for comprehensive definitions of “foreign person.”

Fundamental Research – Basic and applied research in science and engineering where the resulting information is to be shared broadly within the scientific community. See [National Security Decision Directive 189](#) for the comprehensive definition of fundamental research.”

International Traffic in Arms Regulations (ITAR) – The regulations administered by DDTC that regulate the export of articles and services that are inherently military in nature. The ITAR are located in [22 C.F.R. §§ 120–130](#).

Northeastern University Research Enterprise Services (NU-RES) – The office responsible for research and sponsored programs management spanning the lifecycle of all sponsored projects and programs.

Office of Foreign Assets Control (OFAC) – An agency within the Department of the Treasury that administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy, or economy of the U.S.

Office of the General Counsel (OGC) – The office responsible for all aspects of the Northeastern’s legal representation.

Re-export – An actual shipment or transmission of a controlled tangible item, software, or information subject to the EAR or ITAR from one foreign country to another foreign country. See [15 C.F.R. Part 734.2\(b\)\(4\)](#) [EAR] and [22 C.F.R. § 120.19](#) [ITAR] for comprehensive definitions of “re-export.”

Reasons for Control – The listed two-letter abbreviations provided in every ECCN description used in conjunction with the Commerce Country Chart to determine whether an export license is required (e.g., “AT” means anti-terrorism).

Release – The export of technology or software through: 1) visual inspection by foreign nationals of U.S.-origin equipment and facilities; 2) oral exchanges of information in the U.S. or abroad; or 3) the application to situations abroad of personal knowledge or technical experience acquired in the U.S. See [Part 734.2 \(b\)\(3\) of the EAR](#).

Research Compliance – The office within NU-RES that coordinates export control reviews. Research Compliance will also work with the Empowered Official on applying for licenses and generating Technology Control Plans and providing guidance to any faculty members undertaking export controlled research.

Restricted Party Screening – The U.S. government through export regulations restricts or prohibits U.S. entities from exporting or providing services of any kind to any party contained in U.S. government export denial, debarment, and blocked persons lists, which are updated regularly. A restricted party screening involves a review of these lists to ensure that the person

or entity with whom Northeastern is interacting with is not restricted. The University uses Visual Compliance, which provides comprehensive screening for denied/restricted parties.

Specially Designated Nationals (SDN) – A list of: 1) individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries; and 2) individuals, groups, and entities (e.g., terrorists and narcotics traffickers) designated under programs that are not country-specific. The [SDN list](#) is published by OFAC.

Technology Control Plan (TCP) – A plan of the procedures that will be used to ensure that any controlled items and information are not disclosed to unauthorized individuals or entities or otherwise exported without the necessary U.S. government authorization.

Technical Data – Under the ITAR, information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions, or documentation. See [§ 120.10 of the ITAR](#).

Trade Sanction – A penalty that restricts trading activity imposed by one country on another country.

United States Munitions List (USML) – A comprehensive list of military articles, services, and related technical data subject to the export controls under the ITAR. The USML is located in [§ 121.1 of the ITAR](#).

Visual Compliance – Northeastern’s online portal that allows departments and colleges to perform Restricted Party Screenings. The University Compliance Department is the administrator of Visual Compliance. Access request should be sent to compliance@northeastern.edu. All classifications of materials should be performed by Research Compliance.

III. POLICIES AND RESOURCES

Federal export control laws and regulations regulate the distribution of technology, equipment, services and information to foreign nationals and countries for reasons relating to the protection of the national security, foreign policy, and economic interests of the United States.

Noncompliance with applicable regulations may result in fines, penalties, debarment, and even criminal prosecution. While the majority of Northeastern’s activities and research are not subject to export control regulations, there are some circumstances where the regulations apply. Northeastern’s Policy on Export Controls, sets forth Northeastern’s commitment to compliance with this body of regulation.

A. Policies

Export Control Policy Key Requirements

Three key Policy requirements:

1. All faculty and staff are expected to be aware of the regulations;

2. Prior to any export, Northeastern faculty or staff must document their analysis of 1) the applicability of export controls, including the applicability of any exclusion or exemption; and 2) the applicability of government lists of sanctioned countries, individuals, and entities; and
3. While Northeastern provides support to all members of the Northeastern community to assist in compliance with U.S. export control laws and regulations, primary responsibility for compliance rests with the faculty, researcher, or other member of the University community involved in the specific activity.

All faculty and staff should review [the Policy on Export Controls](#). Failure to comply with export control laws and regulations may result in severe criminal and civil penalties for the affected employees and students, as well as administrative sanctions for the University.

Openness in Research Policy Key Requirements

In accordance with Northeastern's [Policy on Openness in Research](#), Northeastern generally will not undertake research projects that have restrictions on openness or academic freedom on any academic campus¹.

Examples of unacceptable restrictions include required external approval of research results before publication, or exclusion of members of the Northeastern community from participation in research.

Accordingly, Northeastern requires that sponsors of research or other activities involving export-controlled equipment, items, technology or information provide Northeastern with advance written notice of their intent to provide Northeastern with access to export-controlled equipment, items, technology or information, especially if that information or technology will be on any Northeastern campus, including Northeastern computing systems.

Written consent of the SVPR to accept any such restrictions is required.

B. Resources and Procedures

Whenever there is a question of whether export controls apply, consult with Research Compliance.

Various administrative offices may be consulted at any time during the export control process, including the Compliance Department, NU-RES, Center for Research Innovation, Procurement, Information Security, Environmental Health and Safety, and the Office of the General Counsel.

Online Tutorial

A revised online tutorial is forthcoming. The revised tutorial will be designed to give faculty, researchers and others an overview and understanding of significant terms, requirements and

¹ The Kostas Research Institute located within the Burlington campus is a wholly owned subsidiary of Northeastern and is exempt from the Openness in Research policy.

consequences of current U.S. export control rules and regulations. Successful completion of the tutorial and a few short questions is evidenced by a Certificate of Completion.

Export Control Decision Tree

This [Decision Tree](#), uses terminology derived from the export regulations of the U.S. Departments of Commerce, State, and the Treasury. This tool consists of nine “Yes” or “No” questions relating to the sharing, shipping, transmitting, or transferring of items, information, or software out of the U.S. lead to a determination of whether or not an export control license may be applicable to a particular situation. If you have any question as to whether export control regulations are implicated in your activity or project, utilize the Decision Tree. If you answer “yes” to any question or have any questions about utilizing the Decision Tree, reach out researchcompliance@northeastern.edu. Northeastern recommends maintaining a copy of each analysis in the relevant award files.

Empowered Official

The University’s Empowered Official is the Senior Vice Provost for Research (SVPR). For more information on this role, see the Glossary.

Procedures

Applicability of Export Control Analysis

In accordance with Northeastern Policy, upon receipt of a notice of export controlled equipment, items, technology or information, Research Compliance and the PI will work together to conduct and document the analysis of the applicability of export control laws and regulations, including any exclusions or exemptions prior to the start of any work on the project.

As a general matter, the following initial determinations must be in the order shown:

1. Is the equipment, item, technology or information listed on the CCL or USML?
2. If any such item is listed on either list, does any regulatory exemption or license exception apply under the circumstances or is a license recommended for the controlled item and particular end-use and end-user?
3. Will the equipment, item, technology or information be exported to an embargoed country or specially designated national?

While Northeastern will facilitate classification and compliance planning related to U.S. export control laws and regulations, primary responsibility for compliance rests with the faculty, researcher or other member of the Northeastern community involved in the specific activity, as that individual is both the most informed about, and in control of, any potential exports.

Technology Control Plans

When research and/or non-research related projects or activities at Northeastern involve export controlled equipment, items, technology or information, the PI (in the case of non-research projects, the responsible party), will complete, with the assistance of Research Compliance and any other applicable offices, such as the Information Technology Services Department, a Technology Control Plan (TCP) to help ensure the research project or activity is conducted in a controlled environment.

TCPs are living documents which require monitoring and revision, as appropriate, much like other regulatory approvals, such as IRB or IBC approvals.

A TCP is a written set of the procedures that will be used to protect against the disclosure of any controlled items, information, equipment, or software to unauthorized individuals or entities or otherwise exported without the necessary U.S. government authorization. A TCP includes both physical and informational security measures proper for the specific technology involved. Before an individual may observe or access the controlled technology, he or she must be briefed on the procedures authorized under the TCP and certify as to his or her agreement to comply with all outlined security measures.

TCPs are documented using a standard form maintained by Research Compliance. Instructions for completing the TCP are included on the form. All TCPs must include a physical and information security plan, personnel screening procedures, a process for carrying out the research project or other covered activity in a controlled environment, and the signatures of the PI and any other staff members responsible for monitoring the TCP.

Completed TCPs shall be provided to and maintained by Research Compliance.

International Shipping

International shipping of any tangible items (including computers, equipment, software and electronics), is considered an export whether the item will be: used in research, ultimately brought back to the U.S., sold or loaned. All such transactions must comply with export and import control laws and regulations, including foreign trade regulations. An export license may be required in order to legally ship an item out of the U.S. Accordingly, in advance of preparing any international shipment, you should complete the [Export Control License Inquiry](#) well in advance of the planned shipment date. It is illegal to ship controlled items without a license.

International shipping of research materials, such as chemicals and biologicals is also highly regulated, and may require a license or permit depending on the nature of the material, country of origin, country of destination, and final use. Please contact the [Office of Environmental Health and Safety](#) well in advance of the planned shipment for assistance. When hazardous goods are being shipped, a shipping agent may be required.

If you need any assistance, please contact researchcompliance@northeastern.edu.

International Travel

Any information, technology, software, and/or equipment you take with you may be subject to U.S. export control laws. If your device has encryption software, either commercially available or research-generated, you may need an export license to carry it with you outside the United States. A license may also be required if you are traveling to an embargoed country (see <http://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>), or if your device contains unpublished data relating to items on a technology control list. You would likely need a license if you plan to travel with a device that is designed for or has software for use with satellites, spacecraft or technologies with a military use.

In many cases, if your electronic device contains commercially available encryption software and will only be used abroad for professional purposes or for personal use for not longer than 12 months from initial departure, and will be secured or kept under your control, you may take or ship it overseas (except to an embargoed country) under a U.S. government license exception. Note, however, that many countries, such as Russia and China, regulate the inbound use of encryption software.

Before taking any software or information overseas, you should check whether it can be safely and legally “exported” to the country or countries you intend to visit. Check the [Export Administration Regulations \(EAR\)](#) and [International Traffic and Arms Regulations \(ITAR\)](#) laws concerning any software on your computer that may be non-exportable or that may require a license to take it out of the country.

You should also check the [University’s travel website](#) for guidance. If you have any questions about electronic devices or electronically-stored data that you plan to take with you abroad, contact the [Office of Information Security](#).

Sharing Information While Abroad

Presentations – If you are presenting in a foreign country, you should do so only on information or research data that is already published or is otherwise publicly available. Discussing unpublished information that concerns an export controlled item or technical data may result in an unauthorized export.

Foreign Collaborations – It is permissible to share the results of fundamental research or publicly available information with foreign colleagues, unless such recipients of this information are restricted parties or representatives of the government of a sanctioned country (e.g., North Korea).

Device Inspection

Typically, customs officials have the authority to search and seize any electronic devices (e.g., laptops; cellphones, digital cameras) *without* probable cause. Therefore, it is highly advisable to:

1. Only carry information and data you want others to see.
2. Do not carry the only copy of irreplaceable data.
3. Do not carry confidential or proprietary data.
4. Consider taking a laptop equipped with only minimum software and data.
5. If you are travelling to a country identified as having a [heightened cybersecurity risk](#), you must take a loaner laptop, as detailed in the [Policy on Computers and Mobile Devices for International Travel](#).

International Travel Guidelines:

- Remove files containing controlled information or information involving restrictions (i.e. labeled confidential, sensitive or controlled/classified) from your laptop or other device.
- Do not save sensitive personal information such as credit card numbers, passport information, social security numbers or browsing history on your device.
- Keep your device(s) within your sight and control whenever possible. Do not accept thumb drives from others.
- Where possible, take only the information which you will present or discuss at the conference or other event. Back up your data and leave a copy in a safe and secure location. If possible, encrypt all information (some countries have encryption import restrictions).
- If you are travelling to a country identified as having a [heightened cybersecurity risk](#), you must take a loaner laptop, as detailed in the [Policy on Computers and Mobile Devices for International Travel](#).
- Be aware that your belongings may be searched multiple times; assume that your electronic media will be copied.
- Where possible, carry memory sticks instead of a laptop.
- Consider keeping your data only on a Northeastern server and accessing it only through a secure VPN connection.
- **Change your password** to one that will be used only during your trip, and change it again when you return.
- Upon returning to the U.S., don't copy sensitive information onto a computer that has been overseas before it has been scanned for malware and "wiped."
- Travel Advisories: <http://travel.state.gov>
- Cyber security alerts: www.onguardonline.gov and www.us-cert.gov/cas/tips/

Procurement

- Northeastern requires that vendors provide technical specification sheets and the Department of Commerce's assigned ECCN or the Department of State's USML classification number to Northeastern's Procurement Services personnel when purchasing controlled items.
- Items listed on an export control list must be tagged at the time of acquisition. Any ancillary materials, such as operating manuals, technical specifications, etc., must be also tagged and securely stored. Procurement will confirm that vendors are not on the Specially Designated Nationals or other government lists by performing Restricted Party Screening before awarding bids and when contracts are signed or orders placed.

- If you receive a shipped item that includes an export control notice, immediately forward a copy of the notice to both Procurement Services and Research Compliance. If the notice cites 10 C.F.R. § 110 or 810, or includes language indicating that an item is subject to the Arms Export Control Act, ITAR, or Department of Energy export control regulations, you must secure the subject item from access by foreign nationals and notify [Research Compliance](#), so that they can provide guidance on further compliance steps.

Hosting International Students, Scholars and Faculty

Northeastern proudly hosts over thousands of international students and scholars from well over one hundred different nations across the world. Through its Office of Global Services (OGS), Global Experience Office(GEO) and other offices, Northeastern is committed to enhancing the international character of the University while providing professional expertise and support to aid in compliance with U.S. laws and regulations.

Whenever planning to have a foreign visitor participate in research, laboratory, course, training or other activity, there are three general questions to take into consideration prior to the visit:

- 1) From what country or institution is the foreign national?
- 2) To what research, technology, and information will the foreign national have access?
- 3) To what locations will the foreign national have access while at Northeastern?

It is recommended that you outreach to [Research Compliance](#) well in advance of the visit and be prepared to answer the questions above.

Depending on the answers to these questions, RPS screening and/or an export license may be required before the foreign national may join in the export controlled activity.

Export controls might also be implicated even in instances of short term visits (e.g., inviting foreign national visitors to tour your research lab or Northeastern facilities, or to participate in training).

H-1B and O-1 Foreign National Sponsored Employees and the Export Control Questionnaire and Certification Process

Northeastern, as the sponsoring employer, has to certify on the Form I-129 visa petition whether or not a license is required for the release of controlled technology or technical data to foreign persons in the U.S. The Office of the General Counsel provides the Export Control Questionnaire and Certification Form to the sponsoring Department/College/Division for completion before the visa petition is filed with the U.S. Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS). If the sponsored employee is currently working at Northeastern, the employee is also asked to review and sign the form.

- If the sponsored employee's supervisor has any questions about whether or not the sponsored employee's work is subject to export controls, s/he should contact researchcompliance@northeastern.edu prior to completing the form.

- More information on how the Office of General Counsel supports immigration proceedings, please visit [this website](#).
- The Office of General Counsel interfaces with applicable visa applicants through [this portal](#).

C. Record Retention

The EAR and the ITAR both include recordkeeping requirements for export-related documents. In addition to the specific export control documents (defined below), Northeastern faculty are required to document and maintain the determination of whether export controls apply to their activities. For export control documents related to research projects, faculty should keep these records for the same retention period as their research project (i.e., **seven years**). For non-research activity, generally BIS requires that all export-related records falling under the EAR be kept on file for **five years** after the shipment or project is finalized or the export license expired, whichever is longer. Similarly, for all documentation of transactions subject to the ITAR, DDTC requires a retention period of **five years** from the expiration of the license.

The EAR defines “export control document” as follows:

- 1) A license;
- 2) Application for license;
- 3) Any and all documents submitted in accordance with the requirements of the EAR in support of, or in relation to, a license application;
- 4) Application for International Import Certificate;
- 5) Delivery Verification Certificate or similar evidence of delivery;
- 6) Electronic Export Information (EEI) on the Automated Export System (AES) presented in connection with shipments to any country;
- 7) A Dock Receipt or bill of lading issued by any carrier in connection with any export subject to the EAR and any and all documents prepared and submitted by exporters and agents pursuant to the export clearance requirements of Part 758 of the EAR;
- 8) A U.S. exporter’s report of request received for information, certification, or other action indicating a restrictive trade practice or boycott imposed by a foreign country against a country friendly to the U.S., submitted to the Department of Commerce in accordance with the provisions of Part 760 of the EAR; Customs Form 7512, Transportation Entry and Manifest of Goods, Subject to Customs Inspection and Permit, when used for Transportation and Exportation (T.& E.) or Immediate Exportation (I.E.); and
- 9) Any other document issued by a U.S. Government agency as evidence of the existence of a license for the purpose of loading onto an exporting carrier or otherwise facilitating or effecting an export from the United States or any re-export of any item requiring a license.

Other types of documents that fall within the scope of record retention and must be maintained for the applicable period include:

- 1) Memoranda;
- 2) Notes;
- 3) Correspondence;
- 4) Contracts;
- 5) Invitations to bid;
- 6) Books of account;
- 7) Financial records;
- 8) Restrictive trade practice or boycott documents and reports; and
- 9) Notification from BIS of:
 - An application being returned without action
 - An application being denied; or
 - The results of a commodity classification or encryption review request conducted by BIS.

The recordkeeping requirement under the EAR is found in [15 C.F.R. Part 762](#).

The recordkeeping requirement under the ITAR is found in [22 C.F.R. § 122.5](#).

IV. OVERVIEW OF REGULATORY STRUCTURE

A. Introduction

What are export control laws?

The body of laws and regulations that make up the U.S. export controls system derives from multiple federal agencies, principally the Department of Commerce, the Department of State, and the Department of the Treasury, as follows:

Regulations	Agency	Covered Information
EAR	Department of Commerce	regulates items, information, and software that are commercial in nature.
ITAR	Department of State	regulates the export of military articles and services
OFAC	Department of the Treasury	issues economic and trade sanctions against countries and geographical regions (e.g., Iran; the Balkans), as well as on specific subject matters (e.g., rough diamond trading)

What is an export?

The concept of “export” includes both the physical transfer of a controlled item outside of the U.S., along with a distribution in any form of a controlled item, information, or software to a foreign person within the U.S. The reach of export controls is vast, given this broad definition of “export” and the extensive lists of controlled items. Yet for U.S. research universities, the effect

of these regulatory regimes is somewhat limited by three significant exclusions: 1) public domain exclusion; 2) educational information exclusion; and 3) fundamental research exclusion.

What is excluded from export controls?

The *public domain exclusion* exempts the transfer of information that is already published and generally available to the public at large. The *educational information exclusion* exempts the sharing of information released in academic catalog courses and associated teaching laboratories, and more generally any information commonly taught in colleges and universities. The *fundamental research exclusion* exempts the disclosure of the results of basic or applied research in science and engineering performed at an accredited institution of higher education in the U.S., provided that the results are ordinarily published and shared *without restrictions* within the scientific community.

The following subsections provide a summary of the three primary governmental agencies and their corresponding laws and regulations, and a review of the potential penalties for committing an export violation.

B. Summary of Three Principal Agencies (Laws & Regulations)

The body of laws and regulations that make up the U.S. export controls system derives from multiple federal agencies, principally the Department of Commerce, the Department of State, and the Department of the Treasury.

Department of Commerce:

Through BIS, the Department of Commerce administers the EAR, which regulate commercial and “dual use” items, software, and technology. “Dual use” means items, information, and software that are primarily commercial in nature, but also have potential military applications (e.g., GPS, computers, and aircraft). The specific items subject to the EAR are located on the CCL. More details on the classification process are below.

If a commercial item is not identified on the CCL, it falls into a general category known as EAR99. This primarily comprises common, low-tech consumer goods (e.g., pencils; jewelry). Notably, this categorical classification differs from the designation “No License Required” (“NLR”), which may be used for either EAR99 items or items on the CCL that do not require a license for the export destination. Note that, although EAR99 items generally can be exported without a license, one may be required if the EAR99 export is to a sanctioned country, entity, or individual.

The following questions are provided by BIS and can be helpful in guiding a determination of your obligations under the EAR:

1. What is it?
2. Where is it going?
3. Who will receive it?
4. What will they do with it?
5. What else do they do?

Further information and guidance on the EAR is available on the [BIS website](#). The EAR in its entirety is located in 15 C.F.R. Parts 730 to 774 (available online [here](#)). BIS maintains [lists](#) to advise the exporting public of entities and individuals who are restricted or prohibited from engaging in export dealings.

Department of State

Through the DDTC, the Department of State administers the ITAR, which regulate items and information inherently or predominantly military in nature. These items, or “defense articles,” are located on the USML. Additionally, the ITAR regulate the furnishing of “defense services,” or services directly related to a defense article, such as training. Under the ITAR, exporters generally must obtain prior written authorization from the DDTC before engaging in any export or re-export of defense articles or defense services.

Further information and guidance on the ITAR is available on the [DDTC website](#). The ITAR in its entirety is located in 22 C.F.R. Parts 120 to 130 (available online [here](#)).

Department of the Treasury

Through OFAC, the Department of the Treasury administers and enforces economic and trade sanctions and embargoes against specifically targeted countries for various national security and foreign policy reasons.

In general, these regulations prohibit transactions of value -- which includes provision of services and collaborations, not just exchanges of payments -- with listed countries and individuals without obtaining a license from the government. Obtaining a license for the activity, including for travel, where required, can take some time. Further information and guidance on economic and trade sanctions, as well as the current list of OFAC sanctioned countries and programs, is available on the [OFAC website](#). OFAC has maintained sanctions against: Belarus, Burma, Central African Republic, Cuba, Democratic Republic of the Congo, Iran, Iraq, Ivory Coast, Lebanon, Liberia, North Korea, Russia, Somalia, South Sudan, Sudan, Syria, Ukraine, Venezuela, Yemen, and Zimbabwe. *Because the sanctions lists can be frequently or unexpectedly revised to add or relax specific provisions, or to add countries, you must check the website for the most up to date lists and sanctions at the time you are proposing the travel, collaboration, or other activity.*

The OFAC regulatory authority extends to individuals or organizations known to support terrorism, and bars any financial dealings or provision of services or support with or to anyone on OFAC’s lists of what are called Specially Designated Nationals. OFAC implements sanctions against designated individuals and entities deemed to be:

1. Agents of a sanctioned country;
2. Terrorism sponsoring organizations;
3. International narcotics traffickers;
4. Weapon proliferators; or
5. Otherwise engaged in activities that threaten national security.

Accordingly, you should be familiar with the persons or entities with whom you are dealing abroad, and if there is any question seek assistance from Research Compliance. The exclusions and exceptions that may pertain under other export control regulations may not apply to sanctioned or embargoed entities under OFAC regulations. You should coordinate with Accounts Payable of the Office of the Treasurer if you are undertaking to make a payment to a foreign individual or organization, so that it will undergo restricted party screening.

C. Penalties

Violations of federal export control laws can result in the levying of significant criminal and civil penalties. Under both the EAR and the ITAR, willful noncompliance is criminal and punishable by imprisonment and/or fines. In the absence of willful intent, a range of administrative penalties are available to the government, including civil fines, denial of export privileges, and seizure or forfeiture of goods. Additionally, the relevant regulatory agency may place individuals or entities on lists that restrict or prohibit the violators' participation in export transactions.

The U.S. government strongly encourages voluntary self-disclosure if someone believes an export violation has occurred. Such self-disclosure may act as a mitigating factor in a determination of which, if any, administrative sanctions should be imposed. Moreover, self-disclosure is typically seen as strong evidence that the noncompliance was not willful.

Two examples of prosecutions within the university context reinforce the need for members of the Northeastern community to be diligent in complying with export controls. In 2009, J. Reece Roth, a former professor of electrical engineering at the University of Tennessee, was convicted and sentenced to four years in prison for transmitting export controlled information to foreign nationals working in his lab and for bringing a laptop with restricted files with him to China. In 2013, the Center for Atmospheric Research at UMass Lowell was charged with export control violations related to sending EAR99-classified items to a sanctioned entity in Pakistan, for which the university was fined \$100,000.

Specific sanctions under each export control regime are as follows:

<u>Regulations</u>	<u>Potential University Sanctions</u>	<u>Potential Individual Sanctions</u>
<u>EAR</u>	<p><i>Criminal:</i> the greater of \$1 million or five times the value of the exports for each willful violation.</p> <p><i>Civil:</i> up to \$10,000 for each violation, or up to \$120,000 for each violation involving items controlled for national security reasons.</p>	<p><i>Criminal:</i> up to \$250,000 and/or 10 years imprisonment for each willful violation.</p> <p><i>Civil:</i> up to \$10,000 for each violation, or up to \$120,000 for each violation involving items controlled for national security reasons.</p>

<u>ITAR</u>	<p><i>Criminal:</i> up to \$1 million for each willful violation.</p> <p><i>Civil:</i> up to \$500,000 for each violation.</p>	<p><i>Criminal:</i> up to \$1 million and/or 10 years imprisonment for each willful violation.</p> <p><i>Civil:</i> up to \$500,000 for each violation.</p>
<u>OFAC</u>	<p><i>Criminal:</i> up to \$1 million for each willful violation.</p> <p><i>Civil:</i> up to \$55,000 for each violation.</p>	<p><i>Criminal:</i> up to \$1 million and/or 20 years imprisonment for each willful violation.</p> <p><i>Civil:</i> up to \$55,000 for each violation.</p>

V. EXPORT CONTROL ISSUES IN UNIVERSITY RESEARCH

A. Deemed Exports

The definition of export for purposes of U.S. export control laws and regulations (see Glossary) includes not only the physical shipment of items abroad, but also the transfer of controlled information or services to foreign nationals, even when such transfer occurs within the U.S. Under the EAR and the ITAR, this release of controlled information to a foreign national within the U.S. is “deemed” to be an export to that person’s home country (see Glossary). Therefore, just as an export license may be required to ship a controlled item outside of the U.S., a license may also be required in order to release technical data about the item necessary for its development, production, or use to a foreign national in the U.S.

The issue of deemed exports is highly relevant in the university environment given the culture of collaborative study, openness in research, academic freedom, and the growing numbers of international faculty, students, and visitors. Whenever faculty and/or students are engaged in teaching or research related to controlled items, information, or software, the involvement of researchers or students from another country opens the door for potential export control compliance concerns.

Deemed exports typically arise in two general contexts:

1. *Visual inspection* (e.g., reading technical specifications, plans, or blueprints; laboratory or plant visits; demonstrations)
2. *Verbal exchange* (e.g., in-person conversations; telephone calls or messages; conference presentations)

B. Re-Exports

U.S. export controls also cover re-exports, which are shipments or transmissions of controlled items, information, or software from one foreign country to another foreign country (see Glossary). For example, a researcher sends an item subject to the EAR or ITAR to Latvia (the export), where it is subsequently sent to Thailand (the re-export). Assuming the researcher is the exporter in both stages of export, the researcher would have to determine whether an export

license is required for both Latvia and Thailand individually given the controlled item in question. If a license is required for both, the researcher would then have to acquire two separate licenses. If a different entity were the exporter from Latvia to Thailand, it (not the researcher) would be responsible for obtaining a license for that re-export. Further guidance on re-exports is located online [here](#).

Additionally, a “deemed re-export” may occur when controlled information is released by a foreign national who has been licensed to receive it to a person of another foreign country who has not yet been licensed to receive the information. As an example, a license might be required in order to release controlled information to an Iranian national living in the U.K.

BIS has interpreted the EAR to mean that deemed re-export licensing requirements are based on a foreign national’s most recent country of citizenship or permanent residency. BIS offers the following guidance on deemed re-exports with respect to when an export license is not required:

In general, an entity outside the U.S. may release technology or source code subject to the EAR to a dual or third country national *without* an additional BIS license issued or the application of an EAR license exception if:

1. The entity is authorized to receive the technology or source code at issue, whether by an individual license, license exception, or through situations where no license is required under the EAR; *and*
2. The dual or third country national is a bona fide regular and permanent employee directly employed by the entity; *and*
3. Such employee is a national exclusively of countries that are member states of NATO or the European Union, Australia, Japan, New Zealand, or Switzerland; *and*
4. The release of technology or source code takes place completely within the physical territory of any such country.

C. Exclusions from Export Control Regulations

The combined scope of export control regulations under the EAR and the ITAR is quite broad, encompassing products, equipment, material, software, and information in both commercial and military contexts. Northeastern is committed to openness in research and the scholarly exchange of ideas, therefore, the majority of research and teaching undertaken at Northeastern will be exempt from export controls under one or more of the following three exclusions: 1) public domain exclusion; 2) educational information exclusion; and 3) fundamental research exclusion.

Public Domain

The *public domain exclusion* exempts the transfer of information that is already published and generally available to the public at large. The export control regimes express this exclusion somewhat differently, but both generally support the notion that publicly available information should not be under the purview of export control regulations.

Under the ITAR, “public domain” means such information that is published and accessible through:

1. sales at newsstands and bookstores;
2. subscriptions which are available without restriction to any individual who desires to obtain or purchase the published information;
3. second class mailing privileges granted by the U.S. Government;
4. libraries open to the public;
5. patents available at any patent office;
6. unlimited distribution at a conference, meeting, seminar, trade show, or exhibition generally accessible to the public, in the U.S.;
7. public release in any form after approval by the cognizant U.S. government agency; or
8. fundamental research in the U.S. (see “Fundamental Research Exclusion” below).

Under the EAR, “publicly available technology and software” refers to:

1. publication in periodicals, books, print, electronic, or any other media available for general distribution to the public for free or at cost;
2. readily availability at libraries open to the public or at university libraries;
3. patents and open (i.e., published) patent applications available at any patent office; or
4. released at an open conference, meeting, seminar, trade show, or other open gathering.

Educational Information

The *educational information exclusion* generally exempts the sharing of any information commonly taught in colleges and universities. Most importantly, both the EAR and the ITAR permit such disclosure of educational information even if it relates to items located on the CCL or the USML. Therefore, faculty members have a safe harbor to discuss within their courses information and technology that might otherwise be regulated by export controls.

Under the ITAR, the definition of “technical data,” which sets forth the areas of controlled information, does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities. Therefore, information taught in these areas of education are not covered by export controls.

Under the EAR, “educational information” means such publicly available information released by instruction in catalogue courses and associated teaching laboratories of academic institutions.

Fundamental Research

The *fundamental research exclusion* exempts the disclosure of basic or applied research in science and engineering performed at an accredited institution of higher education in the U.S.,

provided that the results are ordinarily published and shared *without restrictions* within the scientific community. While this exclusion represents the most significant exception to export control regulations for U.S. research universities, there are noteworthy limitations. First, this exclusion only applies to technical information, not tangible materials or technology. Second, research will not fall under this exclusion if Northeastern or the researcher accepts any restrictions on the publication or dissemination of the information resulting from the research. Research sponsors are permitted to engage only in limited prepublication reviews of university research to ensure that any future publication would not inadvertently divulge proprietary information provided to the researcher.

According to the National Security Decision Directive 189, “fundamental research” means:

“basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.”

Additionally, BIS offers guidance on the application of the fundamental research exclusion by way of the following sample question and answer:

Question: *Do I need authorization for a foreign graduate student to work in my laboratory?*

Answer:

- You do not need a license or authorization for the mere presence of a foreign graduate student in your laboratory. You do need a license if you plan to transfer controlled technology to a foreign national and the export of that technology is restricted to the foreign national’s home country.
- The EAR license requirements apply to the transfer of controlled technology for “development,” “production,” or “use” of certain equipment. See Part 772 [of the EAR] for definitions of all three terms.
- If the graduate student is receiving technology that has already been published, then that technology is not subject to the EAR and no license is required for the release of that technology. See §734.3(b)(3) and §734.7 [of the EAR] (defining published technology). BIS considers user manuals for equipment to be “published” when they are available from the manufacturer, either (1) for purchase at a price that does not exceed the cost of distribution, or (2) as part of the normal materials that accompany the equipment when sold to the public and without restrictions on further distribution.
- If the graduate student is receiving technology in the context of instruction in a catalog course (or associated teaching laboratories) of an academic institution, then that technology is not subject to the EAR and no license is

required for the release of that technology. See §734.3(b)(3)(iii) and §734.9 [of the EAR].

- If the graduate student is receiving technology that arises during, or results from, “fundamental research,” then that technology is not subject to the EAR and no license is required for the release of that technology. See §734.3(b)(3)(ii) and §734.8 [of the EAR].
- But if you plan to release technology that is subject to the EAR and that is, according to the CCL and Commerce Country Chart, restricted for export to the home country of the foreign graduate student, then you will need a deemed export license.

Available online [here](#).

D. Technology Control Plans (TCPs)

See Section III.B, Technology Control Plans (page 9) for a detailed description.

E. Export Licenses

An export license is a written authorization granted by the appropriate regulatory agency approving a certain type of export transaction that is otherwise prohibited. Licenses are divided into two types: general and specific. A general license authorizes a particular type of transactions for a class of persons without the need to apply for an individual license for each transaction. A specific license authorizes a particular export transaction by a specific person or entity.

Only the Empowered Official may apply for an export license. The specifics of the application process will depend on with which government agency the request is being filed (i.e., BIS, DDTC, or OFAC), as described below. If there is a question or concern about whether an export license is required, faculty and staff should contact [Research Compliance](#).

APPENDIX: Analyses & Operating Procedures

This appendix is intended to outline some of the export control related processes and analysis used by Research Compliance.

License Application Overview

BIS License Applications

All export license applications relating to exports subject to the EAR are filed with BIS. This application system is completely electronic, using an online portal called “[Simplified Network Application Process – Redesign](#)” (SNAP – R). Northeastern has registered with BIS, as required. Research Compliance maintains Northeastern’s Company Identification Number (CIN) and user profiles. Accordingly, Research Compliance will file applications for a license on behalf of the Empowered Official. The system allows users to self-manage their accounts and retrieve status updates of their applications.

Applications Involving Foreign Nationals:

BIS provides [Guidelines for Preparing Export License Applications Involving Foreign Nationals](#) to assist exporters in submitting such license applications. In the case of foreign students working on controlled projects, an individual license must be acquired for each foreign student.

DDTC License Applications

All export license applications involving exports subject to the ITAR are filed with DDTC. The electronic submission system for these applications is DTrade, which is part of the broader [Defense Trade Application Systems \(DTAS\) Online](#). Research Compliance maintains Northeastern’s user profiles. Accordingly, Research Compliance will file applications for a license on behalf of the Empowered Official. The system allows users to self-manage their accounts and retrieve status updates of their applications.

OFAC License Applications

All export license applications for exports to sanctioned countries or entities are filed with OFAC. Unlike BIS and DDTC, OFAC does not require prior registration with the agency, nor is there a standard application form to be used. Rather, applicants mail a written document that includes a detailed description of the proposed transaction, including the names and addresses of any individuals or companies involved. The mailing address for OFAC license applications is:

Office of Foreign Assets Control

U.S. Department of the Treasury
Treasury Annex
1500 Pennsylvania Ave, NW
Washington, DC 20220
Attn: Licensing Division

Research Compliance will file applications for a license on behalf of the Empowered Official.

Guidance on Screening

A. Restricted Party Screening (RPS)

Restricted Party Screening (RPS) is the process of screening parties involved in export transactions to prevent inadvertent noncompliance with U.S. export control law and regulations. Northeastern conducts screening against the Specially Designated Nationals (SDN) list and other government lists in order to comply with federal regulations when 1) enrolling international students; 2) forming business relationships with vendors and third parties; and 3) hiring employees, 4) providing visitor access to certain areas of the University, Any questions regarding this process should be directed to the University Compliance Department.

NU-RES screens new potential funding agencies and subrecipients at the time of proposal. Prior to entering the funding agency or subrecipient entity to the NU-RES system, the entity is screened via Visual Compliance to ensure there are no prohibitions, debarments or suspensions against the entity. Visual Compliance retains the search for five years and will automatically notify NU-RES should an entity's designation change.

B. Export Administration Regulations (EAR)

BIS administers the EAR to regulate controlled commercial and dual-use items, software, and technology. The specific items subject to the EAR are located on the CCL. The following section presents the foundational questions for determining Northeastern's obligations under the EAR, as well as a more detailed explanation of the approach to export classification under the EAR.

BIS's Foundational Questions

Set forth in 15 C.F.R. Part 732.1, the following five questions are designed to provide direction for determining license requirements for a particular export:

1. What is it?
 - a. This is determined by an item's ECCN classification per the CCL.
2. Where is it going?
 - a. This is the country of ultimate destination for an export or re-export of an item.
3. Who will receive it?
 - a. This is the ultimate end-user of the item. Northeastern screens to ensure no end-user is a "bad end-user," such as an identified terrorist organization.
4. What will they do with it?

- a. This is the ultimate end-use of the item, which cannot be a “bad end-use,” such as contributing to a missile or nuclear weapons program.
 - b. End-uses of particular concern to the U.S. Government may invoke export control restrictions over any item, even if ordinarily the item would not require an export license based on its technical specifications.
5. What else do they do?
- a. This refers to certain conduct on the recipient’s end, regardless of whether it is related to this specific export, which may prevent you from dealing with that recipient.

Export Classification under the EAR

The CCL is organized by ECCNs, five character alpha-numeric designations used to identify commercial and dual-use items and their corresponding export control requirements. It is simplest to navigate the CCL by way of the alphabetized index (available for download [here](#)); however, it is useful to understand the longer approach to operating the CCL for whenever the index is insufficient. Using **ECCN 4A980 (computers for fingerprint equipment)** as an example, the following breaks down this approach to export classification under the EAR.

Step 1 — Determine the Category

The CCL is divided into 10 broad categories:

- Category 0* – Nuclear Materials [and Miscellaneous Items]
- Category 1* – Materials, Chemicals, Microorganisms, and Toxins
- Category 2* – Materials Processing
- Category 3* – Electronics
- Category 4* – Computers
- Category 5* – Telecommunications and Information Security
- Category 6* – Sensors and Lasers
- Category 7* – Navigation and Avionics
- Category 8* – Marine
- Category 9* – Aerospace and Propulsion

The first character of an item’s ECCN corresponds to the applicable category. Reviewing the general characteristics of the item will guide you to the appropriate CCL category. Therefore, the ECCN for computers for fingerprint equipment begins with the number “4.”

Step 2 — Determine the Product Group

Each of the ten categories within the CCL is divided into five product groups:

- A* – End items, equipment, accessories, attachments, parts, components, and systems
- B* – Test, inspection, and production equipment
- C* – Materials
- D* – Software
- E* – Technology

The second character of an item's ECCN corresponds to the applicable product group. Therefore, the second character of the ECCN for computers for fingerprint equipment is "A."

Step 3 — Determine the Additional Characters

Within each product group are the specific controlled items, technology, and software, which are reflected in the remaining three characters of an ECCN. "980" is the specific numerical representation for computers for fingerprint equipment and therefore appears after "4A."

Step 4 — Determine the Reason for Controls

Each specific ECCN description includes reasons for the export controls, indicated by two-letter abbreviations:

AT – Anti-Terrorism
CB – Chemical & Biological Weapons
CC – Crime Control
CW – Chemical Weapons Convention
EI – Encryption Items
FC – Firearms Convention
MT – Missile Technology
NS – National Security
NP – Nuclear Nonproliferation
RS – Regional Security
SI – Significant Items
SS – Short Supply
XP – Computers

The reasons for control listed for **ECCN 4A980** are CC Column 1 and AT Column 1. The following image shows how this ECCN appears in the EAR.

a. Rated for continuous operation at temperatures from below 228 K (-45° C) to above 328 K (+55°C), or

b. Designed as ruggedized or 'radiation hardened'.

Note: 'Radiation hardened' means that the "part," "component" or equipment is designed or rated to withstand radiation levels which meet or exceed a total irradiation dose of 5 X 10⁷ rads (Si).

4A102 "Hybrid computers" "specially designed" for modelling, simulation or design integration of "missiles" or their subsystems. (These items are "subject to the ITAR" See 22 CFR parts 120 through 130.)

4A611 Computers, and "parts," "components," "accessories," and "attachments" "specially designed" therefor, "specially designed" for a military application that are not enumerated in any USML category are controlled by ECCN 3A611.

4A980 Computers for fingerprint equipment, n.e.s.

License Requirements

Reason for Control: CC, AT

<i>Control(s)</i>	<i>Country Chart (See Supp. No. 1 to part 738).</i>
-------------------	---

CC applies to entire entry CC Column 1

AT applies to entire entry AT Column 1

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

*Related Controls: N/A
Related Definitions: N/A
Items:*

The list of items controlled is contained in the ECCN heading.

Note: 4A980 does not control equipment limited to one finger and designed for user authentication or access control.

4A994 Computers, "electronic assemblies", and related equipment not controlled by 4A001 or 4A003, and "specially designed" "parts" and "components" therefor.

License Requirements

Reason for Control: AT

<i>Control(s)</i>	<i>Country Chart (See Supp. No. 1 to part 738).</i>
-------------------	---

AT applies to entire entry AT Column 1

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

*Related Controls: N/A
Related Definitions: N/A
Items:*

Step 5 — Consult the Commerce Country Chart

Using the reasons for control provided, cross-referencing the Commerce Country Chart allows you to determine if the specific reason for control applies to any country of destination. This chart is organized by alphabetized countries running down the Y-axis and the reasons for control listed across the X-axis, with most of the latter further divided into multiple columns (e.g., CC Column 1; NS Column 2). An “X” in the appropriate box indicates that a license is required for exporting to that particular country. The Commerce Country Chart is located in Supplement 1 of Part 738 of the EAR, available online [here](#).

For example, a Northeastern faculty member wants to ship three computers used for fingerprinting to three different countries around the world (Afghanistan, Albania, and Algeria) as part of a research project. The reasons for control set forth for this controlled item (ECCN 4A980 computers for fingerprint equipment) are CC Column 1 and AT Column 1. Upon consulting the Commerce Country Chart with this information, we see that an export license is required for Afghanistan and Algeria, but not for Albania (see image below).

Commerce Control List Overview and the Country Chart Supplement No. 1 to Part 738 page 1

Commerce Country Chart

Reason for Control

Countries	Chemical & Biological Weapons			Nuclear Proliferation		Nuclear Security		Missile Tech.		Regional Stability		Financial Controls	Other Controls			Anti-Terrorism	
	CF-1	CF-2	CF-3	NP-1	NP-2	NS-1	NS-2	MT-1	RS-1	RS-2	FC-1	OC-1	OC-2	OC-3	AT-1	AT-2	
Afghanistan	X	X	X	X		X	X	X	X	X			X				
Albania ^{2,3}	X	X		X		X	X	X	X	X							
Algeria	X	X		X		X	X	X	X	X			X		X		
Armenia	X	X		X		X	X	X	X	X			X		X		
Austria	X	X		X		X	X	X	X	X			X		X		
Azerbaijan	X	X	X	X		X	X	X	X	X			X	X			
Bahrain, the	X	X		X		X	X	X	X	X			X		X		

Export Administration Regulations Bureau of Industry and Security May 22, 2015

Step 6 — Consult the Prohibitions and Exceptions

General prohibitions are found in Part 736 of the EAR, such as engaging in actions prohibited by a denial order. For example, if the Northeastern faculty member shipping fingerprinting computers had previously had her export privileges revoked due to an export violation, she would not be able to ship any of the computers, even to Albania, despite no export license being required for that particular transaction. Additionally, general license exceptions are located in Part 740 of the EAR.

Manufacturers of Electronic Devices

To simplify the search for ECCNs for electronic devices, it is often helpful to check with the manufacturer of the product, as most list the ECCNs for their devices and software on their websites. The following are links to export compliance sites of many top technology manufacturers:

Apple – <http://www.apple.com/legal/export.html>

Microsoft – <http://www.microsoft.com/exportinG/termsmx.htm>

IBM – <http://www-03.ibm.com/products/exporting/>

Dell – <http://www.dell.com/learn/us/en/uscorp1/regulatory-compliance>

BlackBerry –

http://us.blackberry.com/content/dam/blackBerry/pdf/legal/northAmerica/english/ECCN_Statement_032713.pdf

Adobe – <http://www.adobe.com/legal/compliance/export.html>

Lenovo – <http://www.lenovo.com/lenovo/us/en/eccn/>

Additional Training

Further training resources provided by BIS are located online [here](#).

C. International Traffic in Arms Regulations (ITAR)

DDTC administers the ITAR to regulate articles and services inherently or predominantly military in nature. The specific defense articles and services subject to the ITAR are located on the USML. The following section presents an explanation of the approach to export classification under the ITAR.

Export Classification under the ITAR

Found in 22 C.F.R. Part 121, the USML is organized by 21 broad categories, with each category subdivided by lettered paragraphs for the individual defense articles. Reviewing the general characteristics of the defense article in question will guide you to one of the following USML categories:

Category I – Firearms, Close Assault Weapons, and Combat Shotguns

Category II – Guns and Armament
Category III – Ammunition/Ordinance
Category IV – Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines
Category V – Explosives and Energetic Materials, Propellants, Incendiary Agents, and their Constituents
Category VI – Surface Vessels of War and Special Naval Equipment
Category VII – Ground Vehicles
Category VIII – Aircraft and Related Articles
Category IX – Military Training Equipment and Training
Category X – Personal Protective Equipment
Category XI – Military Electronics
Category XII – Fire Control, Range Finder, Optical and Guidance and Control Equipment
Category XIII – Materials and Miscellaneous Articles
Category XIV – Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
Category XV – Spacecraft and Related Articles
Category XVI – Nuclear Weapons Related Articles
Category XVII – Classified Articles, Technical Data, and Defense Services Not Otherwise Enumerated
Category XVIII – Directed Energy Weapons
Category XIX – Gas Turbine Engines and Associated Equipment
Category XX – Submersible Vessels and Related Articles
Category XXI – Articles, Technical Data, and Defense Services Not Otherwise Enumerated

Export Licenses and Exemptions under the ITAR

Unlike export controls under the EAR where items listed on the CCL may not require an export license to be shipped abroad, all items listed on the USML require an export license from DDTC (unless an ITAR exemption applies). There are roughly 60 exemptions set forth in multiple sections of the ITAR (e.g., no export license required for certain defense articles to Canada).

Most significantly, the ITAR includes a specific exemption for a U.S. university to disclose unclassified technical data in the U.S. to a foreign person who is the university's bona fide and full-time regular employee (excluding postdoctoral employees). This exemption is available only if:

1. The employee's permanent abode throughout the period of employment is in the U.S.;
and
2. The employee is not a national of a country to which exports are prohibited pursuant to §126.1 of this subchapter (current list available online [here](#)); **and**
3. The institution informs the individual in writing that the technical data may not be transferred to other foreign persons without the prior written approval of DDTC.

Note: There is a similar provision under the EAR for information relating to commercial and dual-use items. See [15 C.F.R. Part 740.13\(f\)](#).

Additional Guidance:

Further information provided by DDTC on the basics of export controls in the area of defense trade is located online [here](#).

D. International Travel

When traveling outside of the U.S., Northeastern faculty, students or staff may be an “exporter” of any tangible items and technical information taken and/or shared abroad. Accordingly, it is important to be aware of the potential triggering of export control regulations. Depending on the items being brought and the countries being visited, an export license may be required prior to departure.

Electronic devices, such as laptops and cellphones, as well as the data on such devices and the underlying technology and encryption software, are all subject to export controls.

The fundamental research exception is not applicable to physical exports from the U.S. to a foreign country. Therefore, bringing equipment with abroad that is related to Northeastern research covered by the fundamental research exception still may be subject to certain export controls.

Examples of Travel to Foreign Destinations

1. Hand carry export controlled items (e.g., laptops, GPS, software, and prototypes)
2. Hand carry technical data or encryption items (e.g., unpublished research results)
3. Visiting embargoed countries (e.g., Cuba, Iran, North Korea, Syria, and Sudan)
4. Interactions with restricted persons or entities

Exceptions to Licensing Requirements

Fortunately, the majority of international travel will not require an export license. In addition to the exclusions related to the transfer of information (i.e., public domain exclusion; educational information; the results of fundamental research), there are two exceptions specifically relevant to international travel:

TMP (15 C.F.R. §740.9) – This license exception applies when:

1. The item is a **“tool of trade”** of Northeastern, meaning the usual and reasonable kinds and quantities of commodities, software, and technology for use in a lawful enterprise or undertaking of the traveler; and
2. The export is **“temporary,”** meaning the item is returned within 12 months; and

3. The traveler retains “**effective control**” throughout the trip, meaning they either keep physical possession of the item, or secure the item in such an environment as a hotel safe, a bonded warehouse, or a locked or guarded exhibition facility.

BAG (15 C.F.R. §740.14) – This license exception applies when the item is either a:

1. “**Personal effect**” of the traveler, meaning the usual and reasonable kinds and quantities for personal use of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, souvenirs, games, and similar personal effects, and their containers; or
2. “**Tool of trade**” of the traveler, meaning the usual and reasonable kinds and quantities of tools, instruments, or equipment and their containers and also technology for use in the trade, occupation, employment, vocation, or hobby of the traveler or members of the household who are traveling.

Sharing Information While Abroad

See travel section above.

Device Inspection

See travel section above.

E. Shipping

See the section on Shipping in Section III.B above.

F. Procurement

See the section on Procurement in Section III.B above.

G. Visitors and International Students and Faculty

See the section on Visitors and International Students and Faculty in Section III.B above.

H. Distance Education

Export control issues might arise in the context of online courses and distance education because non-U.S. persons are likely to be among the registrants. Export controls can be implicated in a few of different ways, such as when: 1) course content incorporates controlled items, information, or software (e.g., if a course on animal behaviors at night includes use of night vision goggles distributed by Northeastern); 2) although the course description does not suggest any export control issues, the faculty member strays outside of the topic into controlled areas (e.g., a course on microbiology that covers details on extracting and purifying viruses); or 3) the

course is “delivered” to students in a sanctioned or embargoed country (e.g., Iran, North Korea, Syria, and Sudan – but check the list for current sanctions and embargoed countries).

VII. Treasury Sanctions and Embargoes

OFAC administers and enforces economic and trade sanctions against specifically targeted countries to carry out national security and foreign policy goals. OFAC also implements sanctions against individuals and entities identified as threats to U.S. national security, such as terrorists, international narcotics traffickers, and weapon proliferators. Depending on the country of destination, the sanction may be practically all-encompassing, prohibiting nearly all transactions relating to that country (e.g., North Korea) , or limited, prohibiting particular transactions or requiring export licenses in certain situations (e.g., Zimbabwe). [OFAC maintains a sanctions list](#).

Additionally, OFAC administers sanctions against geographical regions (e.g., the Balkans), as well as on specific subject matters (e.g., rough diamond trading). These non-country-specific sanctions include or have included:

- The Balkans
- Counter narcotics trafficking
- Cyber-related
- Sergei Magnitsky-related
- Non-proliferation
- Rough diamond trade controls
- Transnational criminal organizations

Because this list is subject to change at any time, you should reference the updated list of OFAC sanctioned countries and programs [online](#) whenever presented with a new export control issue.

VII. Foreign Corrupt Practices Act & Anti-Boycott Laws

Foreign Corrupt Practices Act

The Foreign Corrupt Practices Act (FCPA) prohibits U.S. persons and entities, as well as certain foreign persons and entities, from bribing foreign officials to obtain or retain business. The term “bribe” purposely covers a wide range of corruptly given benefits, as the FCPA bans the giving of “anything of value” to a foreign official. The determination is not the retail value, but whether the recipient subjectively attaches value to the inducement. This includes not only cash payments but also material gifts, trips, entertainment events, and a job or a promise of a job. There is no de minimis amount listed in the FCPA; however, the more extravagant the gift, the more likely it was conferred with improper intent. The FCPA does not cover family members of foreign officials, but there are certain family relations (e.g., spouse; child) that are so close as to give rise to a presumption that a foreign official derives benefits indirectly when money or other items of value are given to a family member directly.

It is important to be aware that prospective faculty, staff, or students may be foreign officials themselves or otherwise closely related to a foreign official. Proper and diligent screening prior to a foreign national's engagement with the University will help you comply with both the FCPA and export control laws.

Anti-Boycott Laws

U.S. anti-boycott laws prevent U.S. persons and entities from participating in other nation's economic boycotts or embargoes. Enacted in the mid-1970s, these anti-boycott laws are found in the amendments to the Export Administration Act (EAA) and the Ribicoff Amendment to the Tax Reform Act (TRA). While these laws apply to all boycotts imposed by foreign countries that are unsanctioned by the U.S., the one of primary concern today is the Arab League boycott of Israel.

Conduct that may be penalized under these anti-boycott laws includes:

- 1) Agreements to refuse or actual refusal to do business with or in Israel or with blacklisted companies.
- 2) Agreements to discriminate or actual discrimination against other persons based on race, religion, sex, national origin, or nationality.
- 3) Agreements to furnish or actual furnishing of information about business relationships with or in Israel or with blacklisted companies.
- 4) Agreements to furnish or actual furnishing of information about the race, religion, sex, or national origin of another person.

Northeastern is committed to anti-boycott compliance and any questions or concerns regarding potentially improper requests by Northeastern, faculty or staff or third parties vendors should be directed to the [Compliance Department](#).